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| 09/528,803 | 03/20/2000 | Paul A. Freiburger | IR-003-C2 | 6272 |

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| EXAMINER |
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BRIER, JEFFERY A

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| ART UNIT | PAPER NUMBER |
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2672

DATE MAILED: 06/25/2003

17

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/528,803

Applicant(s)

FREIBERGER ET AL.

Examiner

Jeffery A. Brier

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 May 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 68-82 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 68-82 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 14.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 05/16/03 has been entered.

Response to Amendment

2. The amendment filed on 05/16/03 has been entered. Claims 68, 70, 72, 74, 77, and 80 have been amended. Claims 68-82 are pending.

Response to Arguments

3. Applicants arguments concerning the rejections under 35 U.S.C. 102(e) and 103(a) filed on 05/16/03 have been considered but they are not persuasive.

Applicant arguments fail to consider that one embodiment of Farber teaches having content providers continuously connected to the content display system (130 and 101) in order for the content provider to control when new content is displayed by the content display system and has the personal computer or terminals or television directly connected to server 130, column 4 lines 8-11 and 29-31. Thus, Farber teaches the newly added feature of providing content data from the content providing system directly to the content display system as well as teaching the newly added feature of the

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content provider may provide scheduling instructions tailored to the set of content data to control at least one of the duration, sequencing, and timing of the display of said image or images generated from the set of content data since the new content data sent from the server 130 or providers 150, 152, 154 indicates a timing, such as display new information now or soon. Therefore the rejections based upon 35 U.S.C. 102(e) are maintained.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 68-82 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The newly claimed limitation "wherein each associated content provider provides its content data directly to the display device or to the content display system" was not described in the originally filed specification. The content display system receives the content data from the content provider through a network and the content display system has the necessary instructions to receive content data and process the content data for eventual supply to the display device. There is no description how a simple display device will directly interface with the content provider and display the content

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data. There is no description how the network will allow a direct connection between the content provider 202 and the content display system 203. A network is connected of many parts and paths. Applicant did not describe how a single dedicated path will be established to allow the content provider to provide its content data directly to the display device or to the content display system.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 68-82 are rejected under 35 U.S.C. 102(e) as being anticipated by Farber et al., U.S. Patent No. 5,819,284.

An analysis of the claims follows.

Claim 68:

Farber teaches a method for engaging the peripheral attention (*during the screen saver mode of operation*) of a person in the vicinity of a display device (*column 2 lines 41-56*), comprising the steps of:

providing one (*depending upon the user's profile one set of content data may be sent from server 130 to the user's personal computer or terminal*) or more sets of

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content data to the display device or to a content display system (*the terminals and personal computer all have a display device and a content display system*) associated with the display device;

providing to the display device or to the content display system a set of instructions (*at column 4 lines 8-11 the provider sends new content data which is an instruction to display new information*) for enabling the display device to selectively display, in an unobtrusive manner (*screen saver mode does not obstruct normal use*) that does not distract a user of the display device or an apparatus associated with the display device from a primary interaction with the display device or apparatus, an image or images generated from a set of content data (*see figure 4*) ; and

auditing the display of sets of content data by the display device (In order float images 401-406 illustrated in figure 4 and described at column 6 line 40-63 the system needs to keep track of the images, thus, an auditing is performed commensurate in scope with the broadly claimed auditing);

wherein the one or more sets of content data are selected from a plurality of sets of content data (each type of content data such as weather has many different sets of data), each set being provided by an associated content provider (when there is one set of content data then the server 130 is the content provider and when there is more than one set of content data each set is from 150, 152, 154), wherein each associated content provider provides its content data directly to the display device or to the content display system (when there is one set of content data then server 130 is directly connected to a user's terminal or personal computer, column 4 lines 29-31, and when

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there is more one set of content data each provider 150, 152, 154 is directly connected to a user's terminal or personal computer after reading column 4 lines 8-11 and 29-31), and wherein for each set the respective content provider may provide scheduling instructions tailored to the set of content data to control at least one of the duration, sequencing, and timing (the new content data sent from the server 130 or providers 150, 152, 154 indicates a timing, such as display new information now or soon) of the display of said image or images generated from the set of content data.

Claim 70:

This claim is a computer readable medium claim claiming the method of claim 68. This claim is rejected for the reason given for claim 68 and since a computer program makes Farber's system function and since computer programs are present in computer readable medium, also see claim 11 of Farber.

Claim 72:

This claim is computer readable medium claim similar to claim 70 and this claim is broader than claims 68 and 70 since auditing is not claimed. The two limitations present in claim 72 and not present in claim 70 are at lines 4 and 5 of claim 72. Farber teaches instructions for acquiring a set of content data from a content providing system since the terminals and personal computer need to have instructions on how to acquire new content data. Farber teaches instructions for detecting an idle period of predetermined duration because to determine when to enter the screen saver mode the

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personal computer and terminals need to know when the user has not interacted with the system for a predetermined period of time.

Claim 74:

This claim is similar to claim 68 with the exception that it is a system claim and since it claims selection by a user of one or more control options. For the system difference note Farber is a computer system. As for the selection by a user of one or more control options note the claim does not claim when the user selects the option, it just claims selection of one or more control option during the selective display of the image or images generated from the set of content data. In figure 2 Farber shows a user profile database which is formed by the user, see column 4 lines 42-62. Thus, the database is a user input apparatus that enables selection of one or more control options.

Claim 76:

Farber teaches a link control option that enables the user to establish a link with an information location, column 1 lines 35-40.

Claims 77 and 80;

These claims claim the same functional limitation that claim 74 claims. The difference being these claims are a method claim (claim 77) and a computer readable medium claim (claim 80). Thus, claim 77 is rejected for the reasons given for claim 74 and claim 80 is rejected for the reasons given for claim 74 and since a computer program makes

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Farber's system function and since computer programs are present in computer readable medium, also see claim 11 of Farber.

Claims 69, 71, 73, 75, 78 and 81:

Claim 69 add to claim 68 the limitation "wherein the display device comprises a television". Claims 71, 73, 75, 78 and 81 all add the same limitation to their respective parent claims. Farber discusses at column 2 line 52 using a television.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffery A. Brier whose telephone number is (703) 305-4723. The examiner can normally be reached on M-F from 6:30 to 3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Razavi, can be reached at (703) 305-4713).

Any response to this action should be mailed to:


Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to: (703) 872-9314 (for Technology Center 2600 only)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.


Jeffery A Brier
Primary Examiner
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